



House of Representatives

General Assembly

File No. 506

February Session, 2006

Substitute House Bill No. 5818

House of Representatives, April 12, 2006

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING LOST OR STOLEN FIREARMS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2006*) (a) Whenever a person
2 who possesses a firearm, as defined in section 53a-3 of the general
3 statutes, does not have actual physical possession of such firearm, such
4 person shall store or keep such firearm in such a manner as to ensure
5 that there is not a substantial and unjustifiable risk that such firearm
6 will be stolen or otherwise come into the possession of another person
7 without authorization. Such risk must be of such nature and degree
8 that the failure to perceive it constitutes a gross deviation from the
9 standard of care that a reasonable person would observe in the
10 situation.

11 (b) Any person who violates subsection (a) of this section and such
12 firearm is seized or recovered by a law enforcement agency while not
13 in the possession of such person shall be guilty of a class A
14 misdemeanor.

15 Sec. 2. (NEW) (*Effective October 1, 2006*) (a) Any person who
16 possesses a firearm, as defined in section 53a-3 of the general statutes,
17 that is stolen from such person or that such person loses shall report
18 such theft or loss to the organized local police department for the town
19 in which the theft or loss occurred or, if such town does not have an
20 organized local police department, to the state police troop having
21 jurisdiction for such town, not later than seventy-two hours after such
22 person knew or should have known of such theft or loss. Such
23 department or troop shall forthwith forward a copy of such report to
24 the Commissioner of Public Safety.

25 (b) Any person who fails to make a report required by subsection (a)
26 of this section within the prescribed time period shall be fined not
27 more than five hundred dollars, except that, if such person
28 intentionally fails to make such report within the prescribed time
29 period, such person shall be guilty of a class A misdemeanor for the
30 first offense and a class D felony for any subsequent offense.

31 Sec. 3. Section 29-33 of the general statutes is repealed and the
32 following is substituted in lieu thereof (*Effective October 1, 2006*):

33 (a) No person, firm or corporation shall sell, deliver or otherwise
34 transfer any pistol or revolver to any person who is prohibited from
35 possessing a pistol or revolver as provided in section 53a-217c, as
36 amended.

37 (b) On and after October 1, 1995, no person may purchase or receive
38 any pistol or revolver unless such person holds a valid permit to carry
39 a pistol or revolver issued pursuant to subsection (b) of section 29-28,
40 as amended, a valid permit to sell at retail a pistol or revolver issued
41 pursuant to subsection (a) of section 29-28, as amended, or a valid
42 eligibility certificate for a pistol or revolver issued pursuant to section
43 29-36f, as amended, or is a federal marshal, parole officer or peace
44 officer.

45 (c) No person, firm or corporation shall sell, deliver or otherwise
46 transfer any pistol or revolver except upon written application on a

47 form prescribed and furnished by the Commissioner of Public Safety.
48 Such person, firm or corporation shall insure that all questions on the
49 application are answered properly prior to releasing the pistol or
50 revolver and shall retain the application, which shall be attached to the
51 federal sale or transfer document, for at least twenty years or until
52 such vendor goes out of business. Such application shall be available
53 for inspection during normal business hours by law enforcement
54 officials. No sale, delivery or other transfer of any pistol or revolver
55 shall be made unless the person making the purchase or to whom the
56 same is delivered or transferred is personally known to the person
57 selling such pistol or revolver or making delivery or transfer thereof or
58 provides evidence of his identity in the form of a motor vehicle
59 operator's license, identity card issued pursuant to section 1-1h, as
60 amended, or valid passport. No sale, delivery or other transfer of any
61 pistol or revolver shall be made until the person, firm or corporation
62 making such transfer obtains an authorization number from the
63 Commissioner of Public Safety. Said commissioner shall perform the
64 national instant criminal background check and make a reasonable
65 effort to determine whether there is any reason that would prohibit
66 such applicant from possessing a pistol or revolver as provided in
67 section 53a-217c, as amended. If the commissioner determines the
68 existence of such a reason, the commissioner shall deny the sale and no
69 pistol or revolver shall be sold, delivered or otherwise transferred by
70 such person, firm or corporation to such applicant.

71 (d) No person, firm or corporation shall sell, deliver or otherwise
72 transfer any pistol or revolver, other than at wholesale, unless such
73 pistol or revolver is equipped with a reusable trigger lock, gun lock or
74 gun locking device appropriate for such pistol or revolver, which lock
75 or device shall be constructed of material sufficiently strong to prevent
76 it from being easily disabled and have a locking mechanism accessible
77 by key or by electronic or other mechanical accessory specific to such
78 lock or device to prevent unauthorized removal. No pistol or revolver
79 shall be loaded or contain therein any gunpowder or other explosive
80 or any bullet, ball or shell when such pistol or revolver is sold,
81 delivered or otherwise transferred.

82 (e) Upon the sale, delivery or other transfer of any pistol or revolver,
83 the person making the purchase or to whom the same is delivered or
84 transferred shall sign a receipt for such pistol or revolver which shall
85 contain the name and address of such person, the date of sale, the
86 caliber, make, model and manufacturer's number and a general
87 description of such pistol or revolver, the identification number of
88 such person's permit to carry pistols or revolvers, issued pursuant to
89 subsection (b) of section 29-28, as amended, permit to sell at retail
90 pistols or revolvers, issued pursuant to subsection (a) of said section
91 29-28, or eligibility certificate for a pistol or revolver, issued pursuant
92 to section 29-36f, as amended, if any, and the authorization number
93 designated for the transfer by the Department of Public Safety. The
94 person, firm or corporation selling such pistol or revolver or making
95 delivery or transfer thereof shall give one copy of the receipt to the
96 person making the purchase of such pistol or revolver or to whom the
97 same is delivered or transferred, shall retain one copy of the receipt for
98 at least five years, and shall send, by first class mail, or electronically
99 transmit, within forty-eight hours of such sale, delivery or other
100 transfer, one copy of the receipt to the Commissioner of Public Safety
101 and one copy of the receipt to the chief of police or, where there is no
102 chief of police, the warden of the borough or the first selectman of the
103 town, as the case may be, of the town in which the transferee resides.

104 (f) The provisions of this section shall not apply to antique pistols or
105 revolvers. An antique pistol or revolver, for the purposes of this
106 section, means any pistol or revolver which was manufactured in or
107 before 1898 and any replica of such pistol or revolver provided such
108 replica is not designed or redesigned for using rimfire or conventional
109 centerfire fixed ammunition except rimfire or conventional centerfire
110 fixed ammunition which is no longer manufactured in the United
111 States and not readily available in the ordinary channel of commercial
112 trade.

113 (g) The provisions of this section shall not apply to the sale, delivery
114 or transfer of pistols or revolvers between (1) a federally-licensed
115 firearm manufacturer and a federally-licensed firearm dealer, (2) a

116 federally-licensed firearm importer and a federally-licensed firearm
117 dealer, or (3) federally-licensed firearm dealers.

118 (h) If the court finds that a violation of this section is not of a serious
119 nature and that the person charged with such violation (1) will
120 probably not offend in the future, (2) has not previously been
121 convicted of a violation of this section, and (3) has not previously had a
122 prosecution under this section suspended pursuant to this subsection,
123 it may order suspension of prosecution. The court shall not order
124 suspension of prosecution unless the accused person has
125 acknowledged that he understands the consequences of the suspension
126 of prosecution. Any person for whom prosecution is suspended shall
127 agree to the tolling of any statute of limitations with respect to such
128 violation and to a waiver of his right to a speedy trial. Such person
129 shall appear in court and shall be released to the custody of the Court
130 Support Services Division for such period, not exceeding two years,
131 and under such conditions as the court shall order. If the person
132 refuses to accept, or, having accepted, violates such conditions, the
133 court shall terminate the suspension of prosecution and the case shall
134 be brought to trial. If such person satisfactorily completes his period of
135 probation, he may apply for dismissal of the charges against him and
136 the court, on finding such satisfactory completion, shall dismiss such
137 charges. If the person does not apply for dismissal of the charges
138 against him after satisfactorily completing his period of probation, the
139 court, upon receipt of a report submitted by the Court Support
140 Services Division that the person satisfactorily completed his period of
141 probation, may on its own motion make a finding of such satisfactory
142 completion and dismiss such charges. Upon dismissal, all records of
143 such charges shall be erased pursuant to section 54-142a. An order of
144 the court denying a motion to dismiss the charges against a person
145 who has completed his period of probation or terminating the
146 participation of a defendant in such program shall be a final judgment
147 for purposes of appeal.

148 (i) (1) In any prosecution for a violation of subsection (c) of this
149 section, evidence that a law enforcement agency seized or recovered a

150 pistol or revolver that was not in the possession of the owner thereof at
 151 the time of such seizure or recovery shall be prima facie evidence that
 152 such owner sold, delivered or transferred such pistol or revolver in
 153 violation of the provisions of this section.

154 (2) In any prosecution for a violation of subsection (c) of this section,
 155 it shall be an affirmative defense that the defendant reported the theft
 156 or loss of the pistol or revolver to the organized local police
 157 department for the town in which the theft or loss occurred or, if such
 158 town does not have an organized local police department, to the state
 159 police troop having jurisdiction for such town prior to the seizure or
 160 recovery of such pistol or revolver by a law enforcement agency.

161 [(i)] (j) Any person who violates any provision of this section shall
 162 be guilty of a class D felony, except that any person who sells, delivers
 163 or otherwise transfers a pistol or revolver in violation of the provisions
 164 of this section, knowing that such pistol or revolver is stolen or that the
 165 manufacturer's number or other mark of identification on such pistol
 166 or revolver has been altered, removed or obliterated, shall be guilty of
 167 a class B felony, and any pistol or revolver found in the possession of
 168 any person in violation of any provision of this section shall be
 169 forfeited.

170 Sec. 4. Section 53-202g of the general statutes is repealed. (*Effective*
 171 *October 1, 2006*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2006</i>	New section
Sec. 2	<i>October 1, 2006</i>	New section
Sec. 3	<i>October 1, 2006</i>	29-33
Sec. 4	<i>October 1, 2006</i>	Repealer section

JUD *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 07 \$	FY 08 \$
Police Officer Std. & Training Council; Public Safety, Dept.	GF - None	None	None
Judicial Department (Probation); Correction, Dept.	GF - Cost	Potential	Potential
Judicial Dept.	GF - Potential Revenue Gain	Minimal	Minimal

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 07 \$	FY 08 \$
Municipal Police Departments	None	None	None

Explanation

The bill requires that any person who possess a firearm that has been lost or stolen, report the theft or loss to the local police department or resident state trooper, within seventy-two hours. The local police department or resident state trooper must submit a report to the Commissioner of Public Safety. The bill is anticipated to result in a work load increase for both local police and state troopers, but is not anticipated to result in a fiscal impact.

To the extent that offenders are subject to incarceration or probation supervision in the community as a result of the bill, a potential cost to criminal justice agencies exists. On average, it costs the state \$2,150 to supervise an offender on probation in the community as compared to \$35,040 to incarcerate the offender (note that both figures include fringe benefits). Any revenue from fines imposed under the bill is anticipated to be minimal.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 5818*****AN ACT CONCERNING LOST OR STOLEN FIREARMS.*****SUMMARY:**

This bill subjects people lawfully possessing firearms to criminal penalties if they do not store them in a manner that limits the risk that they will be lost, stolen, or otherwise come into the possession of an unauthorized person. It requires those whose firearms are lost or stolen to file a police report within 72 hours. It creates a rebuttable presumption that an owner illegally sold his pistol or revolver if he does not report its loss or theft and it is not in his possession when the police seize or recover it.

EFFECTIVE DATE: October 1, 2006

STORING FIREARMS

The law defines “firearms” as any sawed-off shotgun, machine gun, rifle, shotgun, pistol, revolver, or other weapon, whether loaded or unloaded, from which a shot may be discharged. The bill requires people possessing them to store them in a manner that ensures no substantial or unjustifiable risk of their being stolen or otherwise coming into an unauthorized person’s possession.

It specifies that the risk must be of a type that failing to perceive it constitutes a gross deviation from the standard of care that a reasonable person would use under the same circumstances.

Penalty

If the police seize or recover a firearm while not in the owner’s possession, he is subject to prosecution for a class A misdemeanor, punishable by up to one year in prison, a fine of up to \$2,000, or both.

REPORTING LOST OR STOLEN FIREARMS

The bill requires anyone who possesses a firearm that is lost or stolen to file a report with his local police department or resident state trooper within 72 hours of when he discovered, or should have discovered, the occurrence. The local department or barracks must forward a copy of the report to the Department of Public Safety (DPS) commissioner.

Penalty

Failing to make a timely police report is punishable by a fine of up to \$500. Intentionally failing to do so is a class A misdemeanor (see above) for the first offense and a class D felony for subsequent offenses. A class D felony is punishable by up to five years in prison, a fine of up to \$5,000, or both.

ILLEGAL PISTOL AND REVOLVER SALES

Pistols and revolvers are defined in law as firearms having barrels less than 12 inches long. It is a class D felony (see above) for anyone to sell, deliver, or transfer a pistol or revolver (1) to a person who lacks a permit for it or (2) without specific authorization from DPS. It is a class B felony, punishable by up to 20 years in prison, a fine of up to \$15,000, or both, if the seller knew the weapon was stolen or that its identifying markings had been altered, removed, or obliterated.

The bill establishes a rebuttable presumption that a person lawfully in possession of the weapon unlawfully sold it when the police seize or recover it outside his possession. It also establishes an affirmative defense (legal excuse) if the defendant can prove, by a preponderance of the evidence, that he had reported the loss or theft any time before the police took possession of it.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 30 Nay 10 (03/27/2006)